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Fifty-fourth Session

Official Records

First Committee
14th Meeting
Friday, 22 October 1999, 10 a.m.
New York

Chairman: Mr. González . . . . . (Chile)

The meeting was called to order at 10.15 a.m.

Statement by the Legal Counsel

The Chairman (*spoke in Spanish*): It is my honour and privilege to call on the Legal Counsel, who will make an important statement.

Mr. Corell (Legal Counsel): In the light of the statement circulated in the First Committee by the Director General of the Organization for the Prohibition of Chemical Weapons (OPCW) on 19 October 1999, I feel compelled to bring the following to the attention of the Committee.

In August 1998, prior to the opening of the fifty-third session of the General Assembly, the Director General of the Organization for the Prohibition of Chemical Weapons first raised the possibility of delivering his statement to the First Committee from the podium, as opposed to the floor, of the Main Committee. Since then various officials of the OPCW have approached the United Nations Secretariat, at different levels, with regard to the Director General's requests. Some of these inquiries were referred to the United Nations Office of Legal Affairs. In response, the Legal Counsel provided advice to the Secretary of the First Committee on 3 September 1998, met with the Director for Special Projects of the OPCW on 12 July 1999 and provided advice to the Chairman of the First Committee at the fifty-fourth session of the General Assembly on 11 October 1999.

In each of the foregoing instances, the Legal Counsel confirmed that the participation of observers is governed by the practice of the Main Committee. Such practice applies also to those who have been invited by the Committee. In accordance with the practice of the Main Committees, and in particular the First Committee, neither Member States nor observers speak from the podium. Representatives of Member States and observers alike make their statements from their seats. Unlike the plenary of the Assembly, there is no speaker's rostrum in the Main Committee. The podium is reserved for the Chairman, the Secretary and the Rapporteur of the Committee, the representative of the Secretary-General and other United Nations officials.

In each of the foregoing instances, the Legal Counsel explained, first, that this was a practice of the Committee; secondly, that it would be for the member States of the First Committee to consider and take a decision on the request by the Director General of the OPCW; and, thirdly, that if the OPCW wished to further pursue that request, it would be for the OPCW to raise the matter with interested Member States and/or the Chairman, not the Secretariat.

It was clearly explained by the Legal Counsel that this was not a matter to be decided by the Secretariat, nor could it, in the absence of consensus, be decided by the Chairman, who remains under the authority of the Committee.

As the Legal Counsel of the United Nations, I deemed it necessary to inform the Committee about what has transpired in this case and about what actions have been taken by the Secretariat, pursuant to and within the limits of its functions.

The Chairman (*spoke in Spanish*): I wish to express special thanks to the Legal Counsel for his statement on the

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subject of the statement circulated by the Director General of the Organization for the Prohibition of Chemical Weapons.

Agenda items 64, 65 and 67 to 85 (*continued*)

Thematic discussion on item subjects; introduction and consideration of all draft resolutions submitted under all disarmament and international security items

The Chairman (*spoke in Spanish*): I would remind members that, as the Committee unanimously agreed, this is the last day for the submission of draft resolutions.

Mr. Tóth (Hungary): First, Mr. Chairman, I pledge my delegation's cooperation with you. We are very happy to see you in the Chair of the First Committee.

I would like to address agenda item 83, dealing with biological weapons.

The negotiations for the protocol to the Biological Weapons Convention (BWC) are now coming to the end of their fifth year. Having begun in January 1995, the Ad Hoc Group will have met for a total of 44 weeks by the end of 1999.

Those five years of work should not, however, be seen in isolation or as the start of a new process. The negotiations are the culmination of a process begun many years ago. Both the 1986 and 1991 Review Conferences of the Biological Weapons Convention instituted procedures that aimed to build confidence among States parties to the BWC. At the Third Review Conference in 1991 the States parties also approved a study of possible verification measures by scientific experts, the so-called VEREX process. The study resulted in the 1994 Special Conference and the formation of the Ad Hoc Group.

Since 1995 the work of Ad Hoc Group has moved through three stages. First, from 1995 to mid-1997 the preliminary work of the Ad Hoc Group built upon the VEREX negotiations and final report to identify elements of a protocol. The July-August 1997 session of the Ad Hoc Group witnessed the transition to a rolling text of the draft protocol and initiated the second phase of the negotiations, the inclusion of detailed provisions in the protocol and an intensification of the work of the Ad Hoc Group, as called for by the States parties at the Fourth Review Conference. January 1999 saw the third phase of the negotiations, the move to a final framework for the protocol and the detailed negotiations on key elements.

It may be timely and relevant to look back at the evolution of the negotiations and consider what needs to be done in the period ahead of us.

At the March 1997 session the Ad Hoc Group requested the Chairman to submit to the Group a document reflecting, in a structured manner, the progress of the work of the Ad Hoc Group during its six previous sessions. Therefore, I presented a draft rolling text at the beginning of the seventh session. This rolling text became the basis of the work of the Ad Hoc Group.

In the period July 1997 to March 1999 the Ad Hoc Group had a total of 22 weeks of negotiations. During this period the Group further developed the preliminary elements of the draft protocol into a more coherent framework. Delegations inserted new concepts and debated fully many of the contentious issues, with a view to developing language in the protocol that would serve the needs of all States parties. Nonetheless, alternative versions of the text proliferated throughout. By the end of 1998 the text contained nearly 3,200 pairs of square brackets. This was to be expected, and formed part of the negotiating process. We began our work on the rolling text with preliminary elements in a draft format. This has developed in the Ad Hoc Group, as proposals were discussed, refined and formulated into a more coherent and structured form.

Interest from actors external to the Ad Hoc Group increased as time progressed. The European Community common position was first presented to the Group in March 1998. The Non-Aligned Movement issued a communiqué in May 1998, following its ministerial meeting in Cartagena de Indias. In the Final Document of the Twelfth Conference of the Heads of State or Government of the Non-Aligned Countries, held at Durban in August-September 1998, the heads of State or Government noted the progress achieved so far in negotiating of a protocol, and stressed the importance of achieving further substantive progress. In September 1998 the high-level meeting of Ministers in New York noted, *inter alia*, that the Ministers were determined to see these essential negotiations brought to a successful conclusion as soon as possible. Such political support certainly added to the momentum of the Ad Hoc Group.

The beginning of this year saw the start of 16 weeks of negotiations. As the text continued to develop, it was facilitated by the new part II documents of each Friend of the Chair seeking to identify possible solutions and facilitate the negotiations at each subsequent meeting.

Negotiations in the last four months, but especially in the September-October session, have made considerable progress towards our common goal of a protocol. Within the rolling text we have seen: first, a reduction in alternative language and the deletion of repetition across the text, resulting in a more coherent whole for the protocol; secondly, a reduction in the number of working papers submitted to the Group, indicating that the necessary elements are already within the rolling text; and, thirdly, new language to address previously contentious issues, such as the papers of the Non-Aligned Movement and other States' paper on visits.

Informal consultations are also becoming a forum more utilized by delegations, both bilateral, in respective Groups of States, and those facilitated by the Chair. In the course of the September-October session alone 97 formal and informal meetings took place. Outside the Ad Hoc Group other international organizations have begun to take an interest in how the identification and implementation of cooperative programmes might facilitate the achievement of such common goals as fighting emerging and re-emerging diseases.

Within the rolling text we have seen a marked improvement in the status of certain key articles. The definitions and criteria in article II have been streamlined and cross-referenced and addressed vis-à-vis their role in the declaration formats, declaration triggers, visits and investigations. The issue of visits as part of the procedures for follow-up after declarations is becoming more coherent. The investigation elements of the protocol are progressing at a good pace. Finally, specific measures for the enhancement of article X of the Convention have been identified and brought together in a more coherent whole in article VII of the protocol.

This does not imply that few problems remain. Many obstacles still confront the Group. Examples from each of the above include the following. First there is the issue of basic terms in article II and the impact they might have on the general purpose criterion of the Convention. Secondly, for compliance measures the actual visit package is still subject to some fundamental differences over its scope. Thirdly, with regard to the investigation procedures, the decision-making process has yet to be resolved. Fourthly, in article VII the future of transfer control arrangements and the relationship between the obligations of articles III and X of the Convention need to be addressed.

Some of these obstacles are more fundamental than others. In previous sessions these fundamental issues have been rapidly passed over, yet now, particularly in the last session, the Ad Hoc Group has begun a process of constructive engagement in these areas.

All the elements necessary for completing the work of the Ad Hoc Group are in place. At this juncture what lie before the Ad Hoc Group are the key and most difficult topics. For many States parties, these issues are of fundamental importance. However, whereas in previous sessions these issues might have been dealt with in a politically loaded atmosphere, the tenor of many discussions is now characterized by the question "How will this be implemented in practice?"

I have said that in my view the work of the Ad Hoc Group has moved through three stages. It is now my belief that the last session marked the end of the third phase. As one participant in the negotiations defined it, "We are witnessing the end of the beginning of the end game." When we assess what has been achieved and examine all the elements together, what we see is a convergence of factors pointing to the next stage of the negotiations, the move to the end game. The question, therefore, is: Will the last session in 1999 and the early sessions in 2000 initiate the end game?

The States parties to the Convention called at the Fourth Review Conference for the completion of the work of the Ad Hoc Group as soon as possible before the commencement of the Fifth Review Conference. This does not set any false deadline, but if the Ad Hoc Group can move into the final stage of its negotiations in 2000 there is no need to dwell unnecessarily on issues simply because the time is available. We might need all the time available, but all States parties agree that the completion of the work of the Ad Hoc Group and the protocols to the Biological Weapons Convention are important objectives for the international community. Thus, collectively, we should move forward as quickly as possible, without losing sight of the importance of producing a legal product of high quality.

We have managed to significantly diminish the number of brackets, especialiy as a result of the most recent session. Their number has fallen from 3,200 to 2,000. Proportionately, we have 30 per cent fewer brackets now in the rolling text than the draft Comprehensive Test-Ban Treaty (CTBT) contained in April 1996, four months prior to the conclusion of the negotiations.

We have begun to address the most difficult issues. In the September-October session, for the first time in the

history of the negotiations, a massive removal of brackets in the areas of prime importance and great complexity took place. Complex technical aspects still need to be refined, but the majority of the decisions facing the Ad Hoc Group are political in nature and thus require the most serious engagement of all parties in an active manner.

It is with some anticipation that I note that 2000 marks both the seventy-fifth anniversary of the 1925 Geneva Protocol and the twenty-fifth anniversary of the entry into force of the Biological Weapons Convention 1975. It is up to us, States parties, to mark both with achievements commensurate with the moral and political legacies these anniversaries mark for the contemporary world of global security and multilateral arms control. The opportunity to complete our work in accordance with our mandate is before us, and I am sure we will achieve that goal.

I would now like to introduce draft resolution A/C.1/54/L.19, "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction".

In its preamble the draft resolution notes with satisfaction that there are 143 States parties to the Convention, including all the permanent members of the Security Council.

The draft recalls the decision of the 1994 Special Conference of the States Parties to the Convention, which established an ad hoc group, open to all States parties, whose objective should be to consider appropriate measures, including possible verification measures, and draft proposals to strengthen the Convention, to be included, as appropriate, in a legally binding instrument to be submitted for the consideration of the States parties.

The draft recalls further the forthcoming seventy-fifth anniversary of the signature of the Geneva Protocol on 17 June 1925 and the twenty-fifth anniversary of the entry into force of the Biological Weapons Convention on 26 March 1975.

In its operative part, the draft resolution welcomes the progress achieved so far in negotiating a protocol to strengthen the Convention and reaffirms the decision of the Fourth Review Conference urging the conclusion of the negotiations by the Ad Hoc Group as soon as possible before the commencement of the Fifth Review Conference and urging it to submit its report, which shall be adopted by consensus, to the States parties to be considered at a special conference.

The draft resolution reaffirms the call on all signatory States that have not yet ratified the Convention to do so without delay, and also calls upon those States that have not yet signed the Convention to become parties thereto at an early date, thus contributing to the achievement of universal adherence to the Convention, duly noting the forthcoming anniversary of the twenty-fifth year of entry into force of the Convention.

It calls upon all States parties, in this context, to accelerate the negotiations and to redouble their efforts within the Ad Hoc Group to formulate an efficient, cost-effective and practical regime and to seek early resolution of the outstanding issues through renewed flexibility in order to complete the protocol on the basis of consensus at the earliest possible date.

The draft resolution requests the Secretary-General to continue to render the necessary assistance to the depositary Governments of the Convention and to provide such services as may be required for the implementation of the decisions and recommendations of the Review Conferences, as well as the decisions contained in the final report of the 1994 Special Conference, including all necessary assistance to the Ad Hoc Group and the special conference that is to consider the report of the Ad Hoc Group, in accordance with its mandate.

May I express the hope that the draft resolution, being sponsored by a large number of the States parties to the Convention, will receive the traditional consensus support.

The Chairman (*spoke in Spanish*): I wish to make a special appeal to all delegations that have circulated draft resolutions to introduce them formally.

I would also like to remind delegations that draft resolutions on all disarmament and international security agenda items, that is, items 64, 65 and 67 to 83, should be submitted to the secretariat by 6 p.m. today. As the Committee agreed at its organizational meeting on 23 September, there will be no extension.

The meeting rose at 10.45 a.m.